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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,590	02/04/2004	Steven Yencheng Chen	H1231	3793
29393 7590 08/02/2007 ESCHWEILER & ASSOCIATES, LLC NATIONAL CITY BANK BUILDING 629 EUCLID AVE., SUITE 1000 CLEVELAND, OH 44114			EXAMINER ENG, DAVID Y	
			ART UNIT 2155	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/771,590

Applicant(s)

CHEN ET AL.

Examiner

DAVID Y. ENG

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 10-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/20/05; 7/22/04; 2/20/04; 2/4/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

Applicants are requested to update the status of related applications on page 1 of the specification.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Description of the entry, the data frames, the receive descriptor ring, the descriptor management system and the counters are vague and indefinite. It is not clear how the descriptor ring, the data frames, the descriptor management system and the counters as recited are related to data transfer between a host and a network via a plurality of priority queues.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 12, 13, 20, 21, 2 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Headrick (USP 5,724,358).

Headrick teaches:

**Claim 1, 12, 13, 20, 21**

A method (abstract line 1) of transferring data between a host (any devices connected to any one of the nodes shown in Figure 1) and a network (the collective nodes 22 interconnected by the communication links 42 shown in Figure 1, WAN column 3, et seq. line 45), the method comprising:

providing a plurality of data transfer queues (priority sub-queues, abstract line 11) in a shared memory (the shared buffer, abstract line 6-7), the individual data transfer queues comprising a priority level and one or more entries, the individual entries being associated with data to be transferred between the host and the network, wherein a first data transfer queue has a higher priority level than a second data transfer queue; and

transferring data between the host and the network by transferring data associated with entries of the first data transfer queue before transferring data associated with entries of the second data transfer queue (Column 3 line 53-54 describes that each node has a switch connected to a device. The switch has a plurality of priority sub-queues for transferring data in accordance with priority between the device and the network).

**Claim 2**

See column 2 line 23-25. Data in Headrick is routed on a per priority basis. In other words, all data in a higher priority queue is routed before data of low priority queue is transferred.

**Claim 11**

Each of the plurality of priority queues in Headrick is provided with data such that data is transferred from the host to the network in accordance with priority.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 14, 22 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Headrick (USP 5,724,358).

**Claim 3**

The "wherein clauses" of claim 3 consist of non-functional descriptive materials. Further, if the queues are in the form of receive descriptor rings, It is obvious that receive descriptor rings would be provided if queues are provided. Furthermore, it is well known that data is transferred in frames in packet network.

**Claim 14, 22**

If receive descriptor rings are the data to be forwarded to the host in accordance with priority, obviously the receive descriptors rings are transmitted through the priority queues so that the receive descriptor rings are transmitted in accordance with their priority.

**Claims 15**

In Headrick, data items are read and transmitted in accordance with their assigned priority between the host and the network via priority queues. Whether the data items are labeled as descriptors, receive descriptor rings, transmit descriptor rings or differently are immaterial as far as the transmitting is concern.

**Allowable Subject matter**

**Claims 4-10, 16-19, 23**

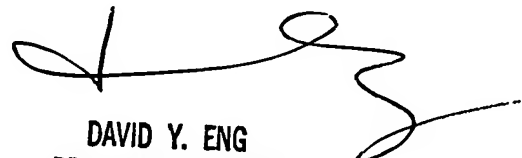
Claims 4-10, 16-19 and 23 appear to contain allowable subject matter. However, for the reasons set forth in the Section 112 Rejection, no statement can be made as to whether they are allowable.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID Y. ENG  
PRIMARY EXAMINER